IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL MISC. WRIT PETITION NO. 4531/2003

ASHOK PURI GOSWAMI Vs. THE STATE OF RAJ. & ORS.

DATE: 28.11.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Yogesh Gupta for the petitioner.
Mr. B.S. Chhaba, Dy. GA for the State.

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Brief facts of the case are that the petitioner passed his Secondary Examination as a regular student from the Board of Secondary Education, Rajasthan, Ajmer with Ist division. It is also contended that the petitioner belongs to Other Backward Classes category. He after undergoing the I.T.I. Course successfully passed the same in July, 1999 and applied for admission in Govt. Poly Technic College for Technical refrigerator and air conditioning subjects.

On 25th of July, the respondent No.3, the Convener, Central Admission and Principal Govt. Poly Technic College, Ajmer affixed a list of successful candidates on the notice board of the college at Ajmer, but the application form of the petitioner for admission in the college has been rejected by

mentioning 'over age'. The petitioner personally contacted the respondent No.3 and also represented and after serving notice for demand of justice, has preferred this writ petition.

The main contention of the petitioner is that the petitioner being a OBC candidate, is entitled to get relaxation under Article 15(4) of the Constitution of India as has been granted to the Scheduled Castes and Scheduled Tribes and women candidates and the petitioner being a candidate of OBC category, should be placed at par with Scheduled Castes and Scheduled Tribes candidates.

It is not disputed that the petitioner crossed the maximum age limit i.e. 22 years. Even otherwise, the petitioner is liable to get the admission in Poly Technic College and as per the provisions of sub-clause (b) of para-4 of the prospectus, relaxation of 5 years can only be extended in favour of the SC/ST and women candidates.

Learned counsel for petitioner further submits that as per clause (2)- **Admission Qualification** of the Board of Technical Education, Rajasthan, Jodhpur, the minimum qualification for admission to a Diploma Course in an affiliated institution shall be as prescribed by the Government of Rajasthan from time to time.

The Department of Personnel, Government of Rajasthan has issued a circular/notification dated 25.05.2000 amending the service rules and as per the amendment, the existing proviso to rule as specified in Column Number 3 against the Service Rules as specified in Column Number 2 of the Schedule appended therewith, shall be deleted. After the existing last proviso to rule as specified in Column Number 4 against each of the Service Rules as specified in Column No.2 of the Schedule appended therewith, the following new proviso at the next serial number shall be added, namely "the upper age limit mentioned above shall be relaxed by 5 years in the case of candidates belonging to the Other Backward Classes."

Since the Government has amended the service rules and benefit of relaxation of 5 years has been extended to OBC candidates also, the same analogy be adopted for the purpose of providing admission after giving relaxation of 5 years.

The respondents in their reply have submitted that since the petitioner crossed the upper age limit of 22 years and on 01.08.2003 he was about 24 years of age, therefore, the application form of the petitioner for admission was rejected. It is also submitted that since there is no provision to provide relaxation in

age to the OBC candidate, therefore, this benefit was not extended in favour of the petitioner.

It is further stated that for the Session in which admission is prayed for by the petitioner, the process of admission in Poly Technic College had already been completed and no question arise to give admission to the petitioner and giving admission to any candidate now would result in following the process of admission of about 2100 candidates again.

I have heard rival submissions of the respective parties.

In the writ petition the petitioner has claimed relaxation in upper age limit being a candidate belonging to OBC category, though in the syllabus no relaxation has been provided and the petitioner wants to take the benefit of amendment made in service rules under which the OBC candidates are given relaxation of 5 years in upper age limit and prayed that same analogy be adopted in the case of petitioner. It is also not disputed that the admissions are made and process of admission is already completed

Learned counsel for the petitioner further submits that the petitioner under the Court's direction can get the admission even there is no vacant seat and placed reliance on the judgment rendered in the case of

Jitendra Pal Kaur Vs. State of Rajasthan and Others, AIR 2001 Rajasthan 105.

As observed herein above, the admitted position is that there is no such provision to provide relaxation to the candidate belonging to OBC category for the purpose of giving admission and the amendment which has been brought by the State Government in the service rules cannot be applied in the instant case. For getting relaxation in age, the petitioner can only approach and represent before the State Government and ti is for the State Government to consider the same, but in any case, no such writ, order or direction to provide benefit of relaxation in age to the petitioner can be issued.

Consequently, the writ petition fails and the same is accordingly dismissed.

(K.S. RATHORE),J.

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